

**American Bar Association
Section of Legal Education and Admissions to the Bar**

MEMORANDUM

DATE: November 1, 2018

TO: Interested Persons and Entities

FROM: Barry A. Currier, Managing Director of Accreditation and Legal Education

SUBJECT: Adoption and Implementation of Revised ABA Standards and Rules of Procedure for Approval of Law Schools

At its meeting in November 2017, the Council approved changes to the *ABA Standards and Rules of Procedure for Approval of Law Schools*. The changes had been circulated for Notice and Comment and a public hearing was held on September 28, 2017. The amendments to Standard 106 (Separate Locations and Branch Campuses) became effective upon concurrence by the ABA House of Delegates at its meeting in February 2018.

At its meeting in May 2018, the Council approved changes to the *ABA Standards and Rules of Procedure for Approval of Law Schools*. The changes had been circulated for Notice and Comment and a public hearing was held on April 12, 2018. The following amended Standards and Rules of Procedure became effective upon concurrence by the ABA House of Delegates at its meeting in August 2018:

- Definitions
- Standard 104: Provision of Information by Law Schools to the Council
- Standard 107: Variances
- Standard 303: Curriculum
- Standard 304: Simulation Courses, Clinics, and Field Placements
- Standard 305: Other Academic Study
- Standard 306: Distance Education
- Standard 307: Studies, Activities, and Field Placements Outside the United States
- Standard 601: Library and Information Resources, General Provisions
- Rules 1 to 52

Attached are an explanation of the changes and a redlined version of the amended Standards and Rules of Procedure.

Explanation of Changes

Standards and Rules of Procedure Related to the Restructuring of the Accreditation Project *Definitions, Standards 104 and 107, and Rules of Procedure*

The restructuring of the Council's work on the ABA law school accreditation process, which required these Standards and Rules changes, moves all of the work of the accreditation process (adopting standards and enforcing them against law schools) to the Council level, eliminating two committees (the Accreditation Committee and the Standards Review Committee). The Council believes that these changes will shorten the decision-making timeline, eliminate redundancies, avoid the necessity for staff increases, reduce expenses, and, overall, improve the effectiveness and efficiency of the process.

The Council has two responsibilities: (a) approve/accredit first-professional degree in law programs in the United States; and (b) offer and operate programs and services to benefit members of the ABA Section of Legal Education and Admissions to the Bar and legal education and bar admissions more broadly. No changes were made in the way the Council carries out its work on non-accreditation matters.

Though the ultimate responsibility for accreditation has always been vested in the Council, the Council for many years has relied on two committees (Accreditation and Standards Review) to assist in this work.

The Accreditation Committee ("AC") had been delegated a substantial portion of work done to ensure that law schools operate in compliance with the Standards. The Council believes that eliminating the AC and doing this work at the Council level has advantages that will improve the efficiency and effectiveness of the accreditation process. For example, the Council will be able to act on major changes proposed by law schools in one step, rather than two (an AC recommendation and then Council review of that recommendation), shortening the response time on proposals that, in many cases, are more time-sensitive than the current process can accommodate. The restructuring will also allow the Council to move more expeditiously in enforcing the Standards when there are concerns that schools are not abiding by them. Moreover, the Council will have a deeper and clearer sense of how the Standards that it adopts are working at the school level if it is involved in the regular comprehensive review of schools and the interim monitoring process, which the AC now handles. Finally, the restructuring will eliminate the need for, and expense of, four to five AC meetings each year.

The Council also has ultimate responsibility for the Standards and Rules of Procedure. In this work, the Council has been aided by the work of the Standards Review Committee. The Council believes that doing all of this work on the Standards and Rules at the Council level will improve the effectiveness and efficiency of the accreditation process in a variety of ways, including the timeline for getting work done, and elimination of many redundancies that happen in the drafting and review of the drafting of Standards.

Standard 106

The revision resolves an inconsistency between Standard 106(b)(1) and Rule 25(b)(1) [former Rule 30(b)(1)] regarding acquiescence and branch campuses. Standard 106(b) addresses the requirements with which a law school must meet if the law school operates a branch campus. Standard 106(b)(1) states that a branch campus must:

(1) Establish a reliable plan that demonstrates that the branch campus is reasonably likely to be in substantial compliance with each of the Standards within three years of the effective date of acquiescence as required by Rule 25;

Rule 25(b)(1) states that the reliable plan in connection with the establishment of a branch campus shall contain information sufficient to allow the Council to determine that:

(1) The proposed branch campus has achieved substantial compliance with the Standards and is reasonably likely to achieve full compliance with each of the Standards within three years of the effective date of acquiescence;

The language in Standard 106(b)(1) and Rule 25(b)(1), which apply to the same situation, was inconsistent. The former required only “substantial compliance” within three years, rather than “substantial compliance at the time of acquiescence and full compliance within three years.” This inconsistency was identified in the Council’s ongoing review of the Standards and Rules. The Council determined that Rule 25(b)(1) states the appropriate requirements and has consistently reviewed any applications for a branch campus in accordance with the requirements of Rule 25. Accordingly, the revision matches the language of Standard 106(b)(1) to the corresponding language in Rule 25(b)(1).

Standard 303, 304, and 305

The revisions adopted by the Council move the general definition of what an experiential course must contain from Standard 303(a)(3) to Standard 304(a). Duplicative language defining simulation, clinic, and field placement in Standard 304 has been deleted. Finally, the cross references in Standards 303, 304, and 305 were changed to reflect the changes.

Standard 306

The changes raise the number of distance education credit hours permitted from 15 credits to up to one-third of the credits required for the J.D. degree. Under this revision, law schools are permitted to grant 10 of those distance education credit hours in the first year. The structure of the Standard is familiar and avoids any confusion that might be caused by a different approach. The definition of a distance education course is also retained: “A distance education course is one in which students are separated from the faculty member or each other for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive

interaction among students and between the students and the faculty member, either synchronously or asynchronously.”

Interpretation 306-1 has been deleted because the description of the types of technology that can be used to support distance education is outdated and unnecessary.

Standard 307

The overarching goal of the changes to Standard 307 address two matters: (a) how the Standards and Criteria deal with field placements that are located outside the United States; and (b) the total amount of credits that may be earned toward the J.D. for studies outside the United States.

First, the Standard stated that studies must be “approved in accordance with the Rules and the Criteria.” The *Criteria for Foreign Summer and Intersession Programs Offered by ABA-Approved Law Schools in a Location Outside the United States*, the *Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools*, and the *Criteria for Accepting Credit for Student Study at a Foreign Institution* (collectively, the “Criteria”) no longer require approval of all programs; thus, the word “approval” was no longer appropriate. Further, there is no need to mention the Rules of Procedure in Standard 307. As revised, Standard 307(a) reads: “A law school may grant credit for study outside the United States that meets the requirements of the Criteria adopted by the Council.”

Further, there was a need to clarify the rules on foreign field placements. Standard 304 with respect to field placements makes no distinction between domestic and foreign field placements. Subsection (b) of the revised Standard clarifies that foreign field placements must meet the requirements of Standard 304. The revisions include a reference to field placements in subsection (c) to clarify that foreign field placements count toward the maximum of credits allowed for study outside the United States. The two-third credit limitation also includes field placement credits obtained outside of the United States.

There was also confusion about the limits the Standards impose on the number of credits allowed toward the J.D. degree for studies outside the United States. The changes to the Standards clarify the matter. The revisions distinguish between studies outside the United States that are operated and sponsored by an ABA-approved law school and studies at a foreign institution. The revisions allow law schools to grant up to two-thirds of the credits required for the J.D. degree in study outside the United States, but only one-third of those credits may be from study at a foreign institution [see subsection (c) of the amendments]. Studies that are sponsored by an ABA-approved law school include programs held in accordance with the *Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools*; programs held in accordance with the *Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools*; and field placements outside the United States. Study at a foreign institution includes any credit given under Standard 505 for prior law study at a foreign institution, as well as any credit given under the *Criteria for Accepting Credit for Student Study at a Foreign Institution*.

Finally, there was a need to clarify how the limit on study outside the United States in Standard 307 interacts with the limit on credit for prior law study outside the United States provided in Standard 505. The revisions in subsection (d) allow law schools to grant up to one-third of the credits required for the J.D. degree for study at a foreign institution, including both credit for prior law study under Standard 505 and credit for student study at a foreign institution.

The *Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools* were amended recently and no longer include a provision prohibiting foreign study before a student has completed one year of full- or part-time study because the Council concluded that such a provision should be in the Standards, if anywhere. Subsection (f) of Standard 307 is amended to permit foreign study so long as a student has successfully completed sufficient prerequisites or contemporaneously receives sufficient training to assure the quality of the student educational experience undertaken outside the United States.

Standard 601

Standard 601(a)(3) was developed during the Comprehensive Review as a method of involving a law library in the process of strategic planning required of a law school. It was envisioned that the planning and assessment taking place for a law school (under what was then Standard 203 Strategic Planning and Assessment) would incorporate the work done by the library under this new Standard. To ensure that incorporation, it was decided that a written assessment should be completed by the library.

However, when then Standard 203 was replaced during a later phase of the Comprehensive Review with the requirement of a law school self-study and self-assessment, no change was made to the new Standard 601. As a result, the library community was confused as to what is required to comply with 601(a)(3). For example: Does a written assessment require an annual report? Must a survey of user satisfaction be conducted to develop an assessment? How often must the written report be prepared?

It is appropriate for a law library to engage in the process of planning and assessment. This process helps the staff to achieve the goals set out in the rest of Standard 601. However, the requirement that the assessment be written is excessive, not required of any other unit of the law school, and has led to confusion for both library directors and the Accreditation Committee. This was resolved simply by removing the requirement that the assessment be “written.” By making this change, a law library and a law school can determine how best to develop a method of assessment that meets the needs of the institution.

Law schools are still required to prepare periodic self-studies and self-assessments under Standard 204 and are required to conduct an ongoing evaluation as required under Standard 315.

Rules of Procedure 4, 9, 13, 20, 47, and 48

Rule 4(d) provided that in extraordinary circumstances, a site evaluation of a law school may be postponed upon the request of the law school. The amendment removes “upon the request of the law school” from the Rule, so that the Managing Director has authority to postpone a visit.

Rule 9(c) provided that a law school must complete and submit the Notice of State or Other Recognized Agency Action Form. This form does not exist so the amendment deletes this provision.

The amendment to Rule 13(a)(2) adds “specific remedial action” to be consistent with Rule 20.

Rule 20 did not specify when the decision of the Council will become effective. The amendment adds a section that provides the decision of the Council will be effective upon issuance.

The amendment deletes Rule 47(a) because it is already addressed in Rule 44.

One amendment to Rule 48 adds the submission of a teach-out plan (see Rule 34) to Rule 48 in two places. First, it includes the submission of a teach-out plan in the list of requests or submissions that shall be made public when filed by a law school in Rule 48(a). Second, it adds the Council’s conclusion and decision on a teach-out plan to the list of conclusions and decisions that must be made public following Council action and notification to the law school of that action in Rule 48(c).

The second amendment clarifies and makes specific the requirements of Rule 29 that the Managing Director make public, after notice of the decision to a school, a Council decision of significant non-compliance with a Standard under Rule 11(a)(4). This aligns the Rule with the requirements of the United States Department of Education, to which the Council is subject, and the provisions of Council Internal Operating Practice 4.

Finally, for accreditation matters that have been made public regarding the status of a law school, the amendment to Rule 48 clarifies the Managing Director’s ability to comment on these matters.

Redlined Version of the Amended Standards and Rules of Procedure

Definitions

As used in the Standards, Interpretations, and Rules of Procedure:

- (1) ~~“Accreditation Committee” or “Committee” means the Accreditation Committee of the Section.~~
- (2)(1) ~~“Approved law school” means a fully approved law school that the Council or Accreditation Committee has determined meets the requirements of Standard 103 or a provisionally approved law school that the Council or the Accreditation Committee has determined meets the requirements of Standard 102.~~
- (3)(2) ~~“Association” means the American Bar Association.~~
- (4)(3) ~~“Branch campus” means a type of separate location at which a student may earn more than two-thirds of the credit hours that the law school requires for the award of a J.D.~~
- (5)(4) ~~“Council” means the Council of the Section.~~
- (6)(5) ~~“Dean” means the chief administrative officer of a law school and includes an acting or interim dean.~~
- (7)(6) ~~“Full-time faculty member” means an individual whose primary professional employment is with the law school, who is designated by the law school as a full-time faculty member, who devotes substantially all working time during the academic year to responsibilities described in Standard 404(a), and whose outside professional activities, other than those described in Standard 404(a), if any, do not unduly interfere with his or her responsibilities as a full-time faculty member.~~
- (8)(7) ~~“Governing board” means a board of trustees, board of regents, or comparable body that has ultimate policy making authority for a law school or the university of which the law school is a part.~~
- (9)(8) ~~“House” means the House of Delegates of the American Bar Association.~~
- (10)(9) ~~“Interpretations” mean the Interpretations of the Standards for Approval of Law Schools.~~
- (11)(10) ~~“J.D. degree” means the professional degree in law granted upon completion of a program of legal education that is governed by the Standards.~~
- (12)(11) ~~“Managing Director” means the Managing Director of the Section of Legal Education and Admissions to the Bar of the American Bar Association.~~

(12)“President” means the chief executive officer of a university or, if the university has more than one administratively independent unit, of the independent unit. If a law school is not part of a university, “president” refers to the chief executive officer of any entity that owns the law school, if there is such a person, or else the Chair of the Board of Directors of the law school.

(13)“Probation” is a public status indicating that a law school is not being operated in compliance with the Standards and is at risk of having its approval withdrawn.

(14)“Rules” mean the Rules of Procedure for Approval of Law Schools.

(15)“Section” means the Section of Legal Education and Admissions to the Bar of the American Bar Association.

(16)“Separate location” means a physical location within the United States: (1) at which the law school offers J.D. degree courses, (2) where a student may earn more than sixteen credit hours of the school’s program of legal education, and (3) that is not in reasonable proximity to the law school’s main location.

(17)“Standards” mean the Standards for Approval of Law Schools.

(18)“University” means a post-secondary educational institution, whether referred to as a university, college, or by any other name, that confers a baccalaureate degree (and may grant other degrees).

Standard 104. PROVISION OF INFORMATION BY LAW SCHOOLS TO ACCREDITATION COMMITTEE AND THE COUNCIL

A law school shall furnish a completed annual questionnaire, self-study, site evaluation questionnaire, and such other information as the ~~Accreditation Committee~~ or Council may require. This information must be complete, accurate, and not misleading, and must be submitted in the form, manner, and time frame specified by the Council.

Standard 106. SEPARATE LOCATIONS AND BRANCH CAMPUSES

- (a) A law school that offers a separate location shall provide:
- (1) Full-time faculty adequate to support the curriculum offered at the separate location and who are reasonably accessible to students at the separate location;
 - (2) Library resources and staff that are adequate to support the curriculum offered at the separate location and that are reasonably accessible to the student body at the

separate location;

- (3) Academic advising, career services and other student support services that are adequate to support the student body at the separate location and that are reasonably equivalent to such services offered to similarly situated students at the law school's main location;
 - (4) Access to co-curricular activities and other educational benefits adequate to support the student body at the separate location; and
 - (5) Physical facilities and technological capacities that are adequate to support the curriculum and the student body at the separate location.
- (b) In addition to the requirements of section (a), a branch campus must:
- (1) Establish a reliable plan that demonstrates that the branch campus has achieved substantial compliance with the Standards and is reasonably likely to be in substantial-achieve full compliance with each of the Standards within three years of the effective date of acquiescence as required by Rule 25;
 - (2) Comply with instructional requirements and responsibilities as required by Standard 403(a) and Standard 404(a); and
 - (3) Offer reasonably comparable opportunities for access to the law school's program of legal education, courses taught by full-time faculty, student services, co-curricular programs, and other educational benefits as required by Standard 311.
- (c) A law school is not eligible to establish a separate location until at least four years after the law school is granted initial full approval.

Interpretation 106-1

A law school with more than one location may have one dean for all locations.

Standard 107. VARIANCES

- (a) A law school proposing to make any change that is or may be inconsistent with one or more of the Standards may apply to the Council for a variance only on one of the following bases:
- (1) A law school may apply for a variance in response to extraordinary circumstances in which compliance with the relevant Standard or Standards would create or constitute extreme hardship for the law school and/or its students. In such cases, the law school must demonstrate that: i) the proposed variance is consistent with the

general purposes and objectives of the overall Standards, and ii) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program or its students.

The variance, if granted, will be for a term certain and limited to the expected duration of the extraordinary circumstances on the basis of which it was granted. It may be extended once for a further term certain, but only if the extraordinary circumstances persist and are beyond the control of the law school.

The decision granting a variance on this basis may require the law school to report to the Managing Director, ~~the Accreditation Committee~~, or the Council regularly as specified in the decision.

- (2) In all variance applications that do not fall within subsection (a)(1), the law school must demonstrate that: i) the proposed variance is consistent with the general purposes and objectives of the overall Standards, ii) the proposed changes or actions that are the basis for the requested variance are experimental or innovative and have the potential to improve or advance the state of legal education, and iii) the anticipated benefits of granting the variance outweigh any anticipated harms to the law school's program or its students.

The variance, if granted, shall be for a term certain and can be extended once, with the extension being for either a further term certain or indefinite, but subject to revocation on the basis of either a change in the showing made by the law school when the variance was granted or a change in circumstances.

The decision granting a variance on this basis may require the law school to report to the Managing Director, ~~the Accreditation Committee~~ or the Council regularly as specified in the decision.

- (b) If the changes that are the subject of the application for a variance constitute or come to constitute a major change in programs or structure under Standard 105 or 106, then the law school shall seek acquiescence by the Council in order to initiate or continue the changes.
- (c) A variance, when granted, is school specific and shall be based on and limited to the facts and circumstances that existed at the law school at the time it applied for the variance.

Standard 303. CURRICULUM

- (a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:

(1) one course of at least two credit hours in professional responsibility that includes substantial instruction in rules of professional conduct, and the values and responsibilities of the legal profession and its members;

(2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised; and

(3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement, as defined in Standard 304. ~~To satisfy this requirement, a course must be primarily experiential in nature and must:~~

~~(i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;~~

~~(ii) develop the concepts underlying the professional skills being taught;~~

~~(iii) provide multiple opportunities for performance; and~~

~~(iv) provide opportunities for self-evaluation.~~

(b) A law school shall provide substantial opportunities to students for:

(1) law clinics or field placement(s); and

(2) student participation in pro bono legal services, including law-related public service activities.

Interpretation 303-1

A law school may not permit a student to use a course to satisfy more than one requirement under this Standard. For example, a course that includes a writing experience used to satisfy the upper-class writing requirement [see 303(a)(2)] cannot be counted as one of the experiential courses required in Standard 303(a)(3). This does not preclude a law school from offering a course that may count either as an upper-class writing requirement [see 303(a)(2)] or as a simulation course [see ~~303(a)(3) and 304(a) and 304(b)]~~ provided the course meets all of the requirements of both types of courses and the law school permits a student to use the course to satisfy only one requirement under this Standard.

Interpretation 303-2

Factors to be considered in evaluating the rigor of a writing experience include the number and nature of writing projects assigned to students, the form and extent of individualized assessment of a student's written products, and the number of drafts that a student must produce for any writing experience.

Interpretation 303-3

Rule 6.1 of the ABA Model Rules of Professional Conduct encourages lawyers to provide pro bono legal services primarily to persons of limited means or to organizations that serve such persons.

In addition, lawyers are encouraged to provide pro bono law-related public service. In meeting the requirement of Standard 303(b)(2), law schools are encouraged to promote opportunities for law student pro bono service that incorporate the priorities established in Model Rule 6.1. In addition, law schools are encouraged to promote opportunities for law students to provide over their law school career at least 50 hours of pro bono service that complies with Standard 303(b)(2). Pro bono and public service opportunities need not be structured to accomplish any of the outcomes required by Standard 302. Standard 303(b)(2) does not preclude the inclusion of credit-granting activities within a law school's overall program of law-related pro bono opportunities so long as law-related non-credit bearing initiatives are also part of that program.

Interpretation 303-4

Law-related public service activities include (i) helping groups or organizations seeking to secure or protect civil rights, civil liberties, or public rights; (ii) helping charitable, religious, civic, community, governmental, and educational organizations not able to afford legal representation; (iii) participating in activities providing information about justice, the law or the legal system to those who might not otherwise have such information; and (iv) engaging in activities to enhance the capacity of the law and legal institutions to do justice.

Standard 304. EXPERIENTIAL COURSES: SIMULATION COURSES, LAW CLINICS, AND FIELD PLACEMENTS

(a) Experiential courses satisfying Standard 303(a) are simulation courses, law clinics, and field placements that must be primarily experiential in nature and must:

- (1) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;
- (2) develop the concepts underlying the professional skills being taught;
- (3) provide multiple opportunities for performance;
- (4) provide opportunities for student performance, self-evaluation, and feedback from a faculty member, or, for a field placement, a site supervisor;
- (5) a classroom instructional component; or, for a field placement, a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection; and
- (6) provide direct supervision of the student's performance by the faculty member; or, for a field placement, provide direct supervision of the student's performance by a faculty member or a site supervisor.

(b) (a)–A simulation course provides substantial experience not involving an actual client; that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in

other lawyering tasks in a set of facts and circumstances devised or adopted by a faculty member, and (2) includes the following:

- ~~(i) direct supervision of the student's performance by the faculty member;~~
- ~~(ii) opportunities for performance, feedback from a faculty member, and self-evaluation; and~~
- ~~(iii) a classroom instructional component.~~

~~(c) (b)~~-A law clinic provides substantial lawyering experience that ~~(1)~~ involves advising or representing one or more actual clients or serving as a third-party neutral, and ~~(2)~~ includes the following:

- ~~(i) direct supervision of the student's performance by a faculty member;~~
- ~~(ii) opportunities for performance, feedback from a faculty member, and self-evaluation; and~~
- ~~(iii) a classroom instructional component.~~

~~(d) (e)~~-A field placement course provides substantial lawyering experience that (1) is reasonably similar to the experience of a lawyer advising or representing a client or engaging in other lawyering tasks in a setting outside a law clinic under the supervision of a licensed attorney or an individual otherwise qualified to supervise, and (2) includes the following:

- ~~(i) direct supervision of the student's performance by a faculty member or site supervisor;~~
- ~~(ii) opportunities for performance, feedback from either a faculty member or a site supervisor, and self-evaluation;~~

~~(i) (iii)~~-a written understanding among the student, faculty member, and a person in authority at the field placement that describes both (A) the substantial lawyering experience and opportunities for performance, feedback and self-evaluation; and (B) the respective roles of faculty and any site supervisor in supervising the student and in assuring the educational quality of the experience for the student, including a clearly articulated method of evaluating the student's academic performance;

~~(ii) (iv)~~-a method for selecting, training, evaluating and communicating with site supervisors, including regular contact between the faculty and site supervisors through in-person visits or other methods of communication that will assure the quality of the student educational experience. When appropriate, a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program;

~~(v) a classroom instructional component, regularly scheduled tutorials, or other means of ongoing, contemporaneous, faculty-guided reflection; and~~

~~(iii) (vi)~~-evaluation of each student's educational achievement by a faculty member; and

~~(iv) (vii)~~-sufficient control of the student experience to ensure that the requirements of the Standard are met. The law school must maintain records to document the steps taken to

ensure compliance with the Standard, which shall include, but is not necessarily limited to, the written understandings described in Standard 304~~(e)(iii)~~(d)(i).

~~(e)(d)~~ Credit granted for such a simulation, law clinic, or field placement course shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.

~~(f)(e)~~ Each student in such a simulation, law clinic, or field placement course shall have successfully completed sufficient prerequisites or shall receive sufficient contemporaneous training to assure the quality of the student educational experience.

Interpretation 304-1

~~To qualify as an experiential course under Standard 303, a simulation, law clinic, or field placement must also comply with the requirements set out in Standard 303(a)(3). When appropriate, a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program.~~

Standard 305. OTHER ACADEMIC STUDY

(a) A law school may grant credit toward the J.D. degree for courses that involve student participation in studies or activities in a format that does not involve attendance at regularly scheduled class sessions, including, but not limited to, moot court, law review, and directed research.

(b) Credit granted for such a course shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.

(c) Each student's educational achievement in such a course shall be evaluated by a faculty member.

Interpretation 305-1

To qualify as a writing experience under Standard 303, other academic study must also comply with the requirement set out in Standard 303(a)(2). To qualify as an experiential course under Standard 303, other academic study must also comply with the requirements set out in Standard ~~303(a)(3)~~304.

Standard 306. DISTANCE EDUCATION

(a) A distance education course is one in which students are separated from the faculty member or each other for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive interaction among students and between the students and the faculty member, either synchronously or asynchronously.

(b) Credit for a distance education course shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process.

(c) A law school shall have the technological capacity, staff, information resources, and facilities necessary to assure the educational quality of distance education.

(d) A law school may award credit for distance education and may count that credit toward the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction required by Standard 311(b) if:

(1) there is opportunity for regular and substantive interaction between faculty member and student and among students;

(2) there is regular monitoring of student effort by the faculty member and opportunity for communication about that effort; and

(3) the learning outcomes for the course are consistent with Standard 302.

~~(e) A law school shall not grant a student more than a total of 15 credit hours toward the J.D. degree for courses qualifying under this Standard. A law school may grant a student up to one-third of the credit hours required for the J.D. degree for distance education courses qualifying under this Standard. A law school may grant up to 10 of those credits during the first one-third of a student's program of legal education.~~

~~(f) A law school shall not enroll a student in courses qualifying for credit under this Standard until that student has completed instruction equivalent to 28 credit hours toward the J.D. degree.~~

(f) A law school shall establish an effective process for verifying the identity of students taking distance education courses and that also protects student privacy. If any additional student charges are associated with verification of student identity, students must be notified at the time of registration or enrollment.

~~Interpretation 306-1~~

~~Technology used to support a distance education course may include, for example:~~

~~(a) The Internet;~~

~~(b) One way and two way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;~~

~~(c) Audio and video conferencing; or~~

~~(d) Video cassettes, DVDs, and CD-ROMs, if the cassettes, DVDs, or CD-ROMs are used in a course in conjunction with any of the technologies listed in paragraphs (a) through (c).~~

Interpretation 306-2 306-1

Methods to verify student identity as required in Standard 306(f)~~(g)~~ include, but are not limited to (i) a secure login and pass code, (ii) proctored examinations, and (iii) other technologies and

practices that are effective in verifying student identity. As part of the verification process, a law school shall verify that the student who registers for a class is the same student that participates and takes any examinations for the class.

Standard 307. STUDIES, ACTIVITIES, AND FIELD PLACEMENTS OUTSIDE THE UNITED STATES

(a) A law school may grant credit for study outside the United States that meets the requirements of the Criteria adopted by the Council.

(b) A law school may grant credit for field placements outside the United States that meet the requirements of Standard 304.

(c) A law school may grant up to two-thirds of the credits required for the J.D. degree for study outside the United States provided the credits are obtained in a program sponsored by an ABA-approved law school. Programs sponsored by an ABA-approved law school include programs held in accordance with the *Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools*; programs held in accordance with the *Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools*; and field placements outside the United States.

(d) A law school may grant up to a maximum of one-third of the credits required for the J.D. degree for any combination of 1) student participation in study outside the United States under the *Criteria for Accepting Credit for Student Study at a Foreign Institution* and 2) credit for courses completed at a law school outside the United States in accordance with Standard 505(c).

(e) Credit hours granted pursuant to subsections (b), (c) and (d) shall not in combination exceed two-thirds of the total credits required for the J.D. degree.

(f) A student participating in study outside the United States must have successfully completed sufficient prerequisites or must contemporaneously receive sufficient training to assure the quality of the student educational experience.

Standard 307. STUDIES, ACTIVITIES, AND FIELD PLACEMENTS OUTSIDE THE UNITED STATES

~~(a) — A law school may grant credit for (1) studies or activities outside the United States that are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council and (2) field placements outside the United States that meet the requirements of Standard 304 and are not held in conjunction with studies or activities that are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council.~~

~~(b) — The total credits for student participation in such studies or activities may not exceed one-third of the credits required for the J.D. degree.~~

Interpretation 307-1

The three Criteria adopted by the Council are the Criteria for Approval of Foreign Summer and Intersession Programs Established by ABA-Approved Law Schools, the Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools, and the Criteria for Accepting Credit for Student Study at a Foreign Institution.

Interpretation 307-2

For purposes of Standard 307, a brief visit to a country outside the United States that is part of a course offered and based primarily at the law school and approved through the school's regular curriculum approval process is not considered to be studies outside the United States.

Standard 601. GENERAL PROVISIONS

(a) A law school shall maintain a law library that:

- (1) provides support through expertise, resources, and services adequate to enable the law school to carry out its program of legal education, accomplish its mission, and support scholarship and research;
- (2) develops and maintains a direct, informed, and responsive relationship with the faculty, students, and administration of the law school;
- (3) working with the dean and faculty, engages in a regular planning and assessment process, including ~~written~~ assessment of the effectiveness of the library in achieving its mission and realizing its established goals; and
- (4) remains informed on and implements, as appropriate, technological and other developments affecting the library's support for the law school's program of legal education.

(b) A law school shall provide on a consistent basis sufficient financial resources to the law library to enable it to fulfill its responsibilities of support to the law school and realize its established goals.

Rules of Procedure for Approval of Law School

I. Scope and Authority

Rule 1: Scope and Purpose

These Rules of Procedure govern the accreditation process as carried out by the Council, ~~Accreditation Committee~~, Managing Director, and Appeals Panel. They establish processes relating to accreditation that further the purposes of the Standards and promote consistency, fairness, and transparency.

Rule 2: Council Responsibility and Authority with Regard to Accreditation Status

The Council has ~~primary~~ authority to determine compliance with the Standards. ~~It has delegated certain authority to the Accreditation Committee as stated in Rule 3.~~ The Council has authority to:

- (a) grant or deny an application of a law school for provisional approval or full approval;
- (b) withdraw provisional or full approval;
- (c) grant or deny applications for acquiescence in a major change, as provided in the Standards;
- (d) grant or deny applications for variances;
- (e) grant or deny an application for approval of a foreign programs, and the continuance of a foreign program as set forth in the Criteria for Foreign Summer and Intersession Programs offered by ABA-Approved Law Schools in a Location Outside the United States; the Criteria for Approval of Foreign Semester and Year-Long Programs; and the Criteria for Accepting Credit for Student Study at a Foreign Institution;
- ~~(f)(e)~~ approve or deny approval of a teach-out plan;
- ~~(g)(f)~~ impose sanctions and/or direct specific remedial action; and
- ~~(g)~~ — consider appeals from decisions of the Accreditation Committee; and
- (h) set fees for services and activities related to accreditation.

Rule 3: Accreditation Committee Responsibility and Authority

The responsibility and authority of the Accreditation Committee is delegated to it by the Council.

- ~~(a)~~ — The Committee has jurisdiction to make recommendations to the Council concerning:
 - ~~(1)~~ an application for provisional or full approval;
 - ~~(2)~~ withdrawal of provisional or full approval;
 - ~~(3)~~ an application for acquiescence in a major change under Rules 29(a)(1) through 29(a)(13);
 - ~~(4)~~ an application for a variance; and
 - ~~(5)~~ approval or denial of a teach-out plan.
- ~~(b)~~ — The Committee has jurisdiction to make decisions concerning all matters other than those specified in Rule 3(a), including:
 - ~~(1)~~ determining compliance with the Standards of any provisionally or fully approved law school in connection with a site evaluation, a complaint, a response to a request for information, a fact-finding report, interim monitoring of accreditation status, or any other circumstances as provided in these Rules;

~~(2) granting or denying an application for approval of a foreign programs, and the continuance of a foreign program as set forth in the Criteria for Foreign Summer and Intersession Programs Offered by ABA Approved Law Schools in a Location Outside the United States; the Criteria for Approval of Foreign Semester and Year Long Programs; and the Criteria for Accepting Credit for Student Study at a Foreign Institution; and~~

~~(3) granting or denying an application for acquiescence in a major change under Rule 29(a)(14) through 29(a)(17).~~

~~(e) The Committee has jurisdiction to impose sanctions and/or direct specific remedial action, or to recommend to the Council that it impose sanctions and/or direct specific remedial action, in accordance with Rules 16 to 18.~~

~~(d) The Committee has the authority to create subcommittees and task forces as it deems appropriate. Subcommittees do not have the authority to take action on behalf of the Accreditation Committee but have the authority to make recommendations where appropriate.~~

Rule 3 4: Appeals Panel Authority

An Appeals Panel has authority to consider appeals of the following decisions of the Council:

- (a) Denial of provisional approval;
- (b) Denial of full approval; or
- (c) Withdrawal of provisional or full approval.

II. Information

Rule 4 5: Site Evaluations

(a) A site evaluation of a law school or of a program is a comprehensive examination of the law school or program conducted by one or more persons qualified to conduct site evaluations who:

- (1) Review documents relating to the law school or program;
- (2) Perform an on-site evaluation of the law school or program; and
- (3) Prepare a factual report to be used by the ~~Committee~~ Council for purposes of making decisions or recommendations relating to accreditation status of the law school or program.

(b) Site evaluations of law schools shall be conducted according to the following schedule:

- (1) A site evaluation of a fully approved law school shall be conducted in the third year following the granting of full approval and every ~~seventh~~ tenth year thereafter.
- (2) A site evaluation of a provisionally approved law school shall be conducted in

accordance with subsection (g) below.

(3) A site evaluation shall be conducted upon application by a law school for provisional approval.

(c) The Council ~~or Committee~~ may order additional site evaluations of a law school when special circumstances warrant.

(d) In extraordinary circumstances, a site evaluation of a law school may be postponed ~~upon the request of the law school~~. In such cases, the postponement shall be at the discretion of the Managing Director in consultation with the chair of the ~~Committee~~ Council and shall not exceed one year.

(e) When a site evaluation of a law school is required under the Standards or these Rules, the Managing Director shall make the following arrangements:

(1) Schedule the site evaluation during the regular academic year, at a time when classes in the program of legal education are being conducted.

(2) Appoint a qualified site evaluation team of sufficient size to accomplish the purposes of the site evaluation, and appoint a chair of the site evaluation team;

(3) Provide the site evaluation team all relevant documents relating to the accreditation history and Accreditation Committee ~~and Council~~ action regarding the law school;

(4) Provide the site evaluation team with any third-party comments received by the Managing Director's Office regarding the law school's compliance with the Standards;

(5) Provide the site evaluation team all complaints received under Rule ~~43~~ 38 and not previously dismissed; ~~by the Managing Director or the Accreditation Committee~~; and

(6) Provide the site evaluation team with any necessary or appropriate directions or instructions.

(f) In connection with a site evaluation of a law school, the Managing Director shall direct the law school to provide the following documents to the site evaluation team before the site evaluation:

(1) All completed forms and questionnaires, as adopted by the Council; and

(2) In the case of a law school applying for provisional or full approval, the completed application for provisional or full approval.

(g) Site evaluations for provisionally approved law schools shall be conducted as follows:

(1) In years two and four, and upon application for full approval, the law school shall be inspected in accordance with the rules for site evaluation of fully approved law schools.

(2) The ~~Accreditation Committee~~ Council has the discretion to order a site evaluation in any other year. The ~~Accreditation Committee~~ Council may direct that the additional site evaluation be limited in scope.

(h) Following a site evaluation, the site evaluation team shall prepare a written report on facts and observations that will enable the ~~Committee~~ Council to determine compliance with the Standards or other issues relating to the accreditation status of the law school. A site evaluation report shall not contain conclusions regarding compliance with Standards or make recommendations for action by the ~~Committee~~ or the Council.

(i) The Managing Director shall review the report submitted by a site evaluation team and ensure that it complies with (h). The Managing Director shall then transmit the report to the president and the dean in order to provide an opportunity to make factual corrections and comments. The law school shall be given at least 30 days to prepare its response to the report, unless the law school consents to a shorter time period. The 30 day period shall run from the date on which the Managing Director transmits the report to the law school.

(j) Following receipt of the law school's response to the site evaluation report, the Managing Director shall forward a copy of the report with the law school's response to ~~members of the Accreditation Committee~~ the Council and the site evaluation team.

(k) Site evaluations regarding foreign programs shall be conducted as provided under the:

(1) Criteria for Foreign Summer and Intersession Programs Offered by ABA-Approved Law Schools in a Location Outside the United States;

(2) Criteria for Approval of Semester and Year-Long Study Abroad Programs Established by ABA- Approved Law Schools.

Rule 5 6: Interim Monitoring of Accreditation Status

(a) The ~~Accreditation Committee~~ Council shall monitor the accreditation status of law schools on an interim basis between site evaluations. In its interim monitoring of a law school's accreditation status, the ~~Committee~~ Council shall use a law school's annual questionnaire submissions, other information requested by the Council ~~Committee~~, and information otherwise deemed reliable by the Council ~~Committee~~ for its review.

(b) In conducting interim monitoring of law schools, the Council ~~Committee~~ shall consider at a minimum:

(1) Resources available to the law school;

(2) Efforts and effectiveness in facilitating student career placement;

(3) Bar passage; and

(4) Student admissions including student credentials, size of enrollment, and academic

attrition.

Rule ~~6~~ 7: Acquisition of Additional Information by the ~~Accreditation Committee~~ and Council

At any time in carrying out their responsibilities under the Standards and Rules, ~~the Committee~~, the Council, or the Managing Director in consultation with the Chair of the ~~Committee~~ or the Council, may require a law school to provide information or respond to an inquiry.

Rule ~~7~~ 8: Submission of Information

In any case in which the ~~Committee~~, the Council, or the Managing Director requests information from a law school pursuant to Rule ~~6~~ 7, the law school shall be given a date certain to provide the information.

Rule ~~8~~ 9: Appointment of a Fact Finder

(a) One or more qualified persons may be appointed as fact finders for the specific purpose of gathering information to enable the ~~Committee~~ or the Council to determine a law school's compliance with a Standard. A fact finder may be required at any time at the direction of the Council, ~~Committee~~, or Managing Director, and may be required under Rules ~~24~~ 29(c) and ~~25~~ 30(e) in connection with a law school's application for acquiescence in a major change; under Rule ~~24~~ 29(d) to assess compliance subsequent to the effective date of acquiescence in a major change; under Rule ~~28~~ 33(b) in connection with a request for a variance; and under Rule ~~39~~ 44(b) in connection with a complaint.

(b) The appointment of a fact finder shall include the following:

- (1) A statement of the Standards, Rules, or other requirements to which the appointment relates;
- (2) A statement of questions or issues for determination by the fact finder;
- (3) A statement of relevant documents or information provided to the fact finder; and
- (4) A date by which the fact finding report shall be submitted.

(c) The fact finder shall prepare a written report on facts and observations that will enable the ~~Committee~~ Council to determine compliance with a Standard or any other issue before the Council ~~Committee~~, or determine appropriate action in response to an actual or potential violation of a Standard. A fact-finding report shall not contain conclusions regarding compliance with the Standards or make recommendations for action by the Council ~~Committee~~.

(d) The Managing Director shall review the report submitted by a fact finder and ensure that it complies with (c). The Managing Director shall then transmit the report to the dean in order to provide an opportunity for the law school to make factual corrections and comments. The law school shall be given at least 30 days to prepare its response to the report, unless the law school consents to a shorter time period. The 30 day period shall run from the date on which the

Managing Director transmits the report to the law school.

Rule 9 10: Notice of Accreditation Decision by Other Agency

(a) An approved law school shall promptly inform the Managing Director of the following actions with respect to the law school:

(1) Pending or final action by State agency to suspend, revoke, withdraw, or terminate legal authority to provide post-secondary education;

(2) Decision by recognized agency to deny accreditation or pre-accreditation;

(3) Pending or final action by recognized agency to suspend, revoke, withdraw, or terminate accreditation or pre-accreditation; or

(4) Probation or equivalent status imposed by recognized agency.

(b) If the law school is part of a university, then the law school shall promptly inform the Managing Director of the above actions with respect to the university or any program offered by the university.

~~(c)~~—A law school must complete and submit the Notice of State or Other Recognized Agency Action Form.

~~(d)~~(c) The Council will not grant approval to a law school if the Council knows, or has reasonable cause to know, that the law school is subject to the actions in subsection (a), unless the Council can provide a thorough and reasonable explanation, consistent with the Standards, why the action of the other body does not preclude the Council's grant of approval. Such explanation will be provided to the Secretary of the Department of Education.

~~(e)~~(d) If the Council learns that an approved law school is the subject of an adverse action by another recognized accrediting agency or has been placed on probation or an equivalent status by another recognized agency, the Council will promptly review its approval of the law school to determine if it should also take adverse action or place the law school on probation.

~~(f)~~(e) The Council will, upon request, share with other appropriate recognized accrediting agencies and recognized State approval agencies information about the accreditation status of a law school and any adverse actions it has taken against a law school.

Rule 10 11: Failure to Provide Information or Cooperate with the Gathering of Information

(a) The ~~Committee~~ or Council may find that a law school has:

(1) Failed to provide information required to be provided under the Standards:

(2) Failed to comply with a request for information under these Rules of Procedure;

(3) Provided information to the Council ~~Committee~~ or the Managing Director's Office that

the ~~Committee~~ Council has reason to believe is false or misleading; or

(4) Failed to cooperate with a site evaluation, a fact finder, or other process for the gathering of information under the Standards or these Rules of Procedure.

(b) If the ~~Committee~~ or Council makes a finding under (a) above, then the ~~Committee~~ or Council may direct that representatives of the law school, including any person specifically designated by the ~~Committee~~ or Council, appear at a hearing to determine whether to impose sanctions and/or direct specific remedial action.

III. Action on Information

Rule ~~11~~ 12: Proceedings to Determine Compliance with Standards in General

(a) In a proceeding to determine accreditation status or compliance with the Standards within the jurisdiction of the Council ~~Committee~~ under Rule ~~2~~ 3, the Council ~~Committee~~ may:

(1) Conclude that the law school is in compliance with a Standard or all of the Standards;

(2) Request or gather further information that will enable the Council ~~Committee~~ to determine compliance with one or more Standards;

(3) Conclude that the Council ~~Committee~~ has reason to believe that a law school has not demonstrated compliance with the Standards;

(4) Conclude that the law school is not in compliance with a Standard; or

(5) ~~Appoint a fact finder.~~ Direct the Managing Director to appoint a fact-finder.

(b) In the event the Council ~~Committee~~ requests or gathers further information or appoints a fact finder in accordance with Rule 11 ~~12~~(a) upon receipt of the law school's response or any fact-finding report, the Council ~~Committee~~ must find the law school in compliance or not in compliance with the Standards for which information was requested or gathered, absent clearly articulated special circumstances. In the event of such special circumstances, the Council ~~Committee~~ may request or gather further information pursuant to 11 ~~12~~(a)(2), 11 ~~12~~(a)(3), or 11 ~~12~~(a)(5).

Rule ~~12~~ 13: Determinations of Compliance

(a) A determination that the law school is in compliance with all of the Standards means that the law school remains an approved law school.

(b) In finding a law school in compliance with a Standard, the Council ~~Committee~~ may couple the finding with a statement calling the law school's attention to the requirements of that Standard when the Council ~~Committee~~ has reason to believe that the law school might, at some time before the next scheduled site evaluation, no longer be in compliance with the Standard in question.

(c) The approval status of a law school is not affected while an appeal from, ~~or review of,~~ a

decision ~~or recommendation~~ of the ~~Committee~~ or Council is pending.

Rule ~~13~~ 14: Actions on Determinations of Noncompliance with a Standard

(a) Following a determination by the ~~Council~~ ~~Committee~~ of non-compliance with a Standard in accord with Rule ~~11~~ ~~12~~(a)(4), the ~~Council~~ ~~Committee~~ shall:

(1) Require the law school to bring itself into compliance and submit information by a specific date to demonstrate that it has come into compliance with the Standard; and

(2) Direct that representatives of the law school, including any person specifically designated by the ~~Council~~ ~~Committee~~, appear at a hearing to determine whether to impose sanctions or direct specific remedial action in connection with the law school's non-compliance with the Standard.

(b) The period of time by which a law school is required to demonstrate compliance with a Standard shall not exceed two years from the date of determination of noncompliance, except as provided for in subsection (c).

(c) Upon request of the law school and for good cause shown, the ~~Committee~~ ~~Council~~ may extend the date of compliance. ~~or may recommend that the Council extend the date of compliance.~~

Rule ~~14~~ 15: Reconsideration; Right to Appeal

(a) A law school does not have the right to request reconsideration of a decision ~~or recommendation~~ made by the ~~Accreditation Committee~~ ~~or to request reconsideration of a decision made by the Council.~~

~~—A law school has a right to appeal a decision of the Accreditation Committee as provided in Rule 23.~~

(b) A law school has a right to appeal a decision of the Council as provided in Rule ~~3~~ ~~36~~.

IV. Sanctions

Rule ~~15~~ 16: Sanctions for Noncompliance with a Standard

(a) Conduct for which sanctions may be imposed upon a law school includes, without limitation:

(1) Substantial or persistent noncompliance with one or more of the Standards;

(2) Failure to present a reliable plan to bring the law school into compliance with the Standards;

(3) Failure to provide information or to cooperate in a site evaluation as required by the Standards;

(4) Making misrepresentations or engaging in misleading conduct in connection with consideration of the law school's status by ~~the Committee~~ ~~or the Council~~, or in public statements concerning the law school's approval status;

(5) Initiating a major change or implementing a new program without having obtained

the prior approval or acquiescence required by the Standards; or

(6) Provision of incomplete, inaccurate or misleading consumer information in violation of Standard 509.

(b) Sanctions may include any or all of the following:

- (1) A monetary payment;
- (2) A requirement that the law school refund all or part of tuition or fees paid by students;
- (3) Public censure;
- (4) Private censure;
- (5) Publication or distribution of an apology or corrective statement by the law school;
- (6) A prohibition against initiating new programs for a specific period;
- (7) Probation for a specific period or until specific conditions are fulfilled; or
- (8) Withdrawal of provisional or full approval.

~~(c) The Committee may itself impose any sanction under (b), except for sanctions under (7) or (8), which the Committee may recommend to the Council.~~

~~(c)~~(d) Any sanction under (b) may be imposed, even if the law school has, at the time of the decision or recommendation, ceased the actions that are the basis for sanctions or otherwise brought itself into compliance with the Standards.

~~(d)~~(e) The Council ~~Committee will~~ shall consider aggravating and mitigating circumstances in determining the appropriate sanction, including the amount of a monetary payment.

(1) Aggravating circumstances are considerations or factors that may justify an increase in the degree or severity of the sanction to be imposed and include, without limitation:

- (i) prior history of violations;
- (ii) degree of negligence, recklessness, or knowledge;
- (iii) effort to conceal;
- (iv) dishonest or selfish motive;
- (v) a pattern of misconduct;
- (vi) bad faith obstruction of an investigation or sanction proceeding by failing to

comply with requests of the Managing Director's Office, a Fact Finder, or rules of a sanction proceeding;

(vii) submission of false or misleading evidence, false or misleading statements, or other deceptive practices during the investigation process or sanction proceeding;

(viii) refusal to acknowledge wrongful nature of conduct;

(ix) injury to former, current, or prospective law students;

(x) apparent amount of monetary, strategic, or reputational gain;

(xi) failure to have sufficient systems in place to ensure compliance, including the law school dean's lack of oversight;

(xii) institutional incentive structures that may contribute to noncompliance; and

(xiii) failure to enquire or investigate when circumstances warrant enquiry or investigation.

(2) Mitigating circumstances are any considerations or factors that may justify withholding or reducing a sanction and include, without limitation:

(i) absence of a prior history of violations;

(ii) degree of negligence, recklessness, or knowledge;

(iii) apparent lack of monetary, strategic, or reputational gain;

(iv) self-reporting of violation;

(v) timely good faith effort to rectify consequences of violation;

(vi) full and free disclosure to and cooperation with Managing Director's Office, cooperation with fact finder, or cooperative attitude toward sanction proceedings; and

(vii) imposition of other sanctions.

Rule 16 17: Sanctions for Failure to Cure Noncompliance with a Standard

If, following a determination by the Council Committee that a law school is not in compliance with a Standard, the law school fails to bring itself into compliance within the time specified by the Council Committee, including any extension for good cause, or fails to complete remedial action directed under Rule 2024(c) or fails to comply with sanctions imposed by the Committee or Council under Rule 1516(b), the Council Committee shall impose ~~or recommend that the Council impose~~ further remedial action or sanctions as provided for in Rule 15 or the Council may 16(e) and 16(d) ~~or recommend that the Council~~ extend the period for the law school to bring itself into compliance.

Rule 1718: Monitoring and Enforcing Compliance with Sanctions

(a) The ~~Council Committee~~ shall monitor the law school's compliance with any requirements for remedial action, any sanctions, or any requirements of probation imposed under these Rules. If the ~~Council Committee~~ concludes that the law school is not complying with the sanctions that have been imposed, or not making adequate progress toward bringing itself into compliance with the Standards, or not fulfilling the requirements of its probation, the ~~Council Committee~~ may impose ~~or recommend that the Council impose~~ additional sanctions referred to in ~~Rule 15(b).16(b).~~ ~~The Committee may itself impose any sanction under 16(b), except for sanctions under (7) or (8).~~

(b) If a law school has been placed on probation, the law school shall demonstrate compliance with the Standards by the end of the period fixed for probation. If the law school fails to demonstrate compliance, then the ~~Council Committee~~ shall:

- (1) ~~Recommend that the Council~~ Withdraw approval; or
- (2) ~~Recommend that, for good cause shown, the Council~~ Extend the period for the law school to bring itself into compliance for good cause shown.

(c) If a law school has been placed on probation, and the law school demonstrates compliance with the Standards by the end of the period fixed for probation, then ~~the Committee shall recommend to the Council that shall remove the probationary status be removed. of the law school.~~

V. Hearings and Meetings of the ~~Accreditation Committee~~ Council

Rule 1819: ~~Accreditation Committee~~ Council Consideration

(a) The ~~Accreditation Committee~~ Council shall consider the status of a law school under Part III or an application from a law school under Part ~~VI~~ VII based on a record consisting of the following, as appropriate:

- (1) Any fact finder's report relating to the subject matter under consideration and any response from the law school;
- (2) The most recent site evaluation report and any response from the law school;
- (3) The most recent site evaluation questionnaire;
- (4) The most recent annual questionnaire;
- (5) Any letters reporting ~~Committee or Council accreditation~~ decisions written subsequent to the most recent site evaluation report, and any responses of the law school;
- (6) The application for provisional or full approval;
- (7) The application for acquiescence in a major change;

(8) The application for a variance of a standard; and

(9) Any other information that the Managing Director and the Chair of the Council determine relevant to the matter under consideration.

~~(b) The Committee Council shall make findings of fact and state conclusions with respect to the matter under consideration. If the matter falls within the provisions of Rule 3(a), the Committee shall make recommendations to the Council.~~

Rule ~~19~~ 20: Attendance at Council Accreditation Committee Meetings and Hearings

(a) A law school has a right to have representatives of the law school, including legal counsel, appear before the Council Committee at a hearing regarding (in) the law school's application for provisional approval, (ii) the law school's application for full approval, (iii) the law school's application for acquiescence in a substantive major change under Rule ~~2429~~(a)(1) – ~~2429~~(a)(13), or at a hearing to determine whether to impose sanctions and/or direct specific remedial action on the part of the law school.

(b) The Managing Director in consultation with the Chair of the Council Committee may set reasonable limitations on the number of law school representatives that may appear and on the amount of time allotted for the appearance.

(c) Except as permitted in subsection (a), a law school does not have a right to appear at a meeting of the Council Accreditation Committee.

(d) The Managing Director or designee and any additional staff designated by the Managing Director shall be present at Council Accreditation Committee meetings and hearings. Legal Counsel for the Section may also be present at Council Accreditation Committee meetings and hearings.

Rule ~~20~~ 24: Hearings before the Council Accreditation Committee

(a) In any hearing held in accordance with Rules ~~10~~ 44(b) or ~~1314~~(a)(2), the Managing Director shall give the law school at least 30 days' notice of the Council Committee hearing. The notice shall specify the apparent non-compliance with the Standards or the apparent failure to provide information or to cooperate with the gathering of information and shall state the time and place of the hearing. For good cause shown, the Managing Director in consultation with the Chair may grant the law school additional time, not to exceed 30 days. Both the notice and the request for extension of time must be in writing.

(b) In any hearing before the Council Committee, the Managing Director shall provide the Council Committee with all appropriate questionnaires, reports, correspondence and any other information that the Managing Director and the Chair determine relevant to the hearing.

(c) If the ~~Committee~~ Council determines following a hearing that a law school is not in compliance with a Standard then the Council Committee may:

- (1) Impose sanctions, ~~or recommend that the Council impose sanctions,~~ on the law school; and/or
- (2) Direct specific remedial action on the part of the law school.
- (d) Upon receipt of information demonstrating compliance with the Standard, the Council Committee may at any time find that the law school is in compliance and cancel the hearing.
- (e) Decisions of the Council shall be effective upon issuance.

~~VI. Hearings and Meetings of the Council~~

~~Rule 22: Council Consideration of Recommendation of Accreditation Committee~~

~~(a) — A law school has a right to have representatives of the law school, including legal counsel, appear before the Council at a Council hearing following a Committee recommendation regarding (i) the law school's application for provisional approval, (ii) the law school's application for full approval, (iii) the law school's application for acquiescence in a major change under Rule 29(a)(1) — 29(a)(13), and (iv) the Committee's recommendation to impose sanctions following a hearing held in accordance with Rules 11(b) or 14(a)(2).~~

~~(b) — The Managing Director in consultation with the Chair of the Council may set reasonable limitations on the number of law school representatives that may appear at a meeting and on the amount of time allotted for the appearance.~~

~~(c) — Except as permitted in subsection (a), a law school does not have a right to appear at a Council meeting, hearing or proceeding on any matter related to the accreditation of a law school.~~

~~(d) — The Chair of the Council may invite the Chair of the Accreditation Committee to appear at the hearing, if the Chair determines that such person could reasonably be expected to provide information helpful to the Committee. The Chair of the Accreditation Committee may not present new evidence unless the law school has the opportunity to respond to that new evidence.~~

~~(e) — The Managing Director or designee and any additional staff designated by the Managing Director shall be present at Accreditation Committee meetings and hearings. Legal Counsel for the Section may also be present at Accreditation Committee meetings and hearings.~~

~~Rule 23: Council Consideration of Appeal from Accreditation Committee Decision~~

~~(a) — A law school may appeal a decision of the Committee by filing with the Managing Director a written appeal within 30 days after the date of the letter reporting the Committee's decision.~~

~~(b) — The Council shall consider the appeal promptly and, when feasible, at its next regularly scheduled meeting.~~

~~(c) — A law school shall not have a right to appear before the Council in connection with the appeal.~~

Rule 24: Evidence and Record for Decision

~~(a) — In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council shall adopt the Committee’s findings of fact unless the Council determines that the findings are not supported by substantial evidence in the record.~~

~~(b) — In any action on a recommendation of the Committee or in any appeal from a Committee decision, the record on which the Council shall make its decision shall be the following:~~

- ~~(1) The record before the Committee on which the Committee based its decision or recommendation;~~
- ~~(2) The letter setting forth the Committee’s decision or recommendation;~~
- ~~(3) The written appeal by the law school, if applicable;~~
- ~~(4) Any written submission by the Committee in response to an appeal, if applicable;~~
- ~~(5) Any testimony of the law school in a hearing or an appearance before the Council.~~

~~(c) — Except as specifically provided otherwise in these Rules, the law school shall not present any evidence to the Council that was not before the Committee at the time of the Committee’s decision or recommendation.~~

~~(d) — In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council will accept new evidence submitted by the law school only if the Executive Committee of the Council determines that:~~

- ~~(1) The evidence was not presented to the Committee;~~
- ~~(2) The evidence could not reasonably have been presented to the Committee;~~
- ~~(3) A reference back to the Committee to consider the evidence would, under the circumstances, present a serious hardship to the law school;~~
- ~~(4) The evidence was submitted at least 14 days in advance of the Council meeting; and~~
- ~~(5) The evidence was appropriately verified at the time of submission.~~

Rule 25: Decisions by the Council

~~(a) — In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council shall give substantial deference to the conclusions, decisions, and recommendations of the Committee.~~

~~(b) — In any action on a recommendation of the Committee or in any appeal from a Committee decision, the Council may, as appropriate:~~

- ~~(1) Affirm the Committee’s decision or recommendation;~~

~~(2) Amend the Committee's decision or recommendation, including imposing any sanction regardless of whether the Committee has imposed or recommended any sanction;~~

~~(3) Reverse the Committee's decision or recommendation; or~~

~~(4) Remand the matter to the Committee for further proceedings.~~

~~(e) If the Council remands a decision for further consideration or action by the Committee, the Council shall identify specific issues that the Committee must address.~~

Rule ~~21~~ 26: Action by Council Following Appeals Panel Proceeding

(a) If the Appeals Panel remands a decision of the Council for further consideration or action by the Council, the Council shall proceed in a manner consistent with the Appeals Panel's decisions or instructions.

(b) In implementing the decision of the Appeals Panel, the Council may impose monitoring, reporting or other requirements on the law school consistent with the Appeals Panel decision and the Rules of Procedure.

VI. VII. Applications

Rule ~~2227~~: Application for Provisional or Full Approval

(a) A law school seeking provisional or full approval shall file with the Managing Director a written notice of intent to seek approval.

(1) The notice shall be filed no later than March 15 in the academic year prior to the academic year in which the law school will apply for approval and shall indicate the law school's preference for a fall or spring site evaluation visit.

(2) Upon receipt of written notice of a law school's intent to seek provisional or full approval, the Managing Director shall arrange for a site evaluation as provided under Rule 4 5.

(3) A law school may not apply for provisional approval until it has completed the first full academic year of operating a full-time program of legal education.

(4) A provisionally approved law school may apply for full approval no earlier than two years after the date that provisional approval was granted.

(5) Upon notice to the Managing Director of its intent to seek provisional approval, a law school seeking provisional approval shall comply with Standard 102(f) regarding communication of its status.

(b) The application for provisional or full approval is due at least eight weeks prior to the scheduled site evaluation visit and must contain:

- (1) A letter from the dean certifying that the law school has completed all of the requirements for seeking provisional or full approval or that the law school seeks a variance from specific requirements of the Standards and that the law school has obtained the concurrence of the president in the application;
 - (2) All completed forms and questionnaires, as adopted by the Council;
 - (3) In the case of a law school seeking provisional approval, a copy of a feasibility study that evaluates the nature of the educational program and goals of the law school, the profile of the students who are likely to apply, and the resources necessary to create and sustain the law school, including relation to the resources of a parent institution, if any;
 - (4) A copy of the self-study;
 - (5) Financial operating statements and balance sheets for the last three fiscal years, or such lesser time as the institution has been in existence. If the applicant is not a publicly owned institution, the statements and balance sheets must be certified;
 - (6) Appropriate documents detailing the law school and parent institution's ownership interest in any land or physical facilities used by the law school;
 - (7) A request that the Managing Director schedule a site evaluation at the law school's expense; and
 - (8) Payment to the Section of any required fee.
- (c) A law school must demonstrate that it or the university of which it is a part is legally authorized under applicable state law to provide a program of education beyond the secondary level.
- (d) A law school shall disclose whether an accrediting agency recognized by the United States Secretary of Education has denied an application for accreditation filed by the law school, revoked the accreditation of the law school, or placed the law school on probation. If the law school is part of a university, then the law school shall further disclose whether an accrediting agency recognized by the United States Secretary of Education has taken any of the actions enumerated above with respect to the university or any program offered by the university. As part of such disclosure, the law school shall provide the Managing Director with information concerning the basis for the action of the accrediting agency.

Rule 23 28: Reapplication for Provisional or Full Approval

- (a) If the Council denies an application for provisional or full approval or withdraws provisional or full approval, or if a law school withdraws an application for provisional or full approval, a law school shall not reapply until it is able to certify that it has addressed the reasons for the denial, removal, or withdrawal, explain how it has done so, and is able to demonstrate that it is operating in compliance with the Standards.

- (b) Any notice and reapplication must be filed within the schedule prescribed by Rule ~~22~~ 27.

Rule ~~24~~ 29: Application for Acquiescence in ~~Major~~ Substantive Change

- (a) ~~Major~~ Substantive changes requiring application for acquiescence include:

- (1) Acquiring another law school, program, or educational institution;
- (2) Acquiring or merging with another university by the parent university where it appears that there may be substantial impact on the operation of the law school;
- (3) Transferring all, or substantially all, of the program of legal education or assets of the approved law school to another law school or university;
- (4) Merging or affiliating with one or more approved or unapproved law schools;
- (5) Merging or affiliating with one or more universities;
- (6) Materially modifying the law school's legal status or institutional relationship with a parent institution;
- (7) A change in control of the law school resulting from a change in ownership of the law school or a contractual arrangement;
- (8) A change in the location of the law school that could result in substantial changes in the faculty, administration, student body, or management of the law school;
- (9) Establishing a branch campus;
- (10) Establishing a separate location other than a branch campus;
- (11) A significant change in the mission or objectives of the law school;
- (12) The addition of courses or programs that represent a significant departure from existing offerings or method of delivery since the latest site evaluation including instituting a new full-time or part-time division;
- (13) The addition of a permanent location at which the law school is conducting a teach-out for students at another law school that has ceased operating before all students have completed their program of study;
- (14) Contracting with an educational entity that is not certified to participate in Title IV, HEA programs, that would permit a student to earn 25 percent or more of the course credits required for graduation from the approved law school;
- (15) Establishing a new or different program leading to a certificate or degree other than the J.D.

degree;

(16) A change in program length measurement from clock hours to credit hours; and

(17) A substantial increase in the number of clock or credit hours required for graduation.

(b) An application for acquiescence in a ~~major~~ substantive change shall consist of the following:

(1) All completed forms and questionnaires, as adopted by the Council;

(2) A letter from the dean certifying that the law school has completed all of the requirements for requesting acquiescence in a ~~major~~ substantive change and that the law school has obtained the concurrence of the president in the application;

(3) A copy of the law school's most recent self-study or an updated self-study if the most recent self-study is more than three years old where the application is for acquiescence in a ~~major~~ substantive change described in Rule ~~24 29(a)(1)~~ through ~~24 29(a)(13)~~;

(4) A description of the proposed change and a detailed analysis of the effect of the proposed change on the law school's compliance with the Standards;

(5) Payment to the Section of the application fee.

(c) The Managing Director shall appoint a fact finder in connection with an application for acquiescence in a substantive ~~major~~ change, except that no fact finder is required if the Managing Director and the Chair of the Council ~~Accreditation Committee~~ determine that the application does not require additional information to assist ~~Accreditation Committee~~ and Council determination of the question of acquiescence.

(d) ~~When the Council grants~~ ~~In recommending or granting~~ acquiescence in a substantive ~~major~~ change under Rules ~~2429(a)(1)~~ through ~~2429(a)(9)~~, the ~~Committee or Council~~ Managing Director shall appoint a fact finder subsequent to the effective date of acquiescence as provided in Rule ~~25 30(e)~~. The ~~Committee or Council~~ also may direct appointment ~~appoint~~ of a fact finder subsequent to the effective date of acquiescence in a substantive ~~major~~ change under Rules ~~2429(a)(10)~~ through ~~2429(a)(17)~~ for purposes of determining whether the law school remains in compliance with the Standards. ~~In recommending or granting~~ When the Council grants acquiescence under Rule ~~2429(a)(10)~~ in a separate location at which the law school offers more than 50% of the law school's program of legal education, ~~however, the Committee or Council~~ the Managing Director shall appoint a fact finder to conduct a visit within six months of the effective date of acquiescence or in the first academic term subsequent to acquiescence in which students are enrolled at the separate location.

(e) In addition to satisfying the requirements of Rule ~~2429(b)~~, an application for acquiescence shall contain information sufficient to allow the ~~Accreditation Committee~~ Council to determine whether the ~~major~~ substantive change is so significant as to constitute the creation of a new or different law school. If the ~~Accreditation Committee~~ Council determines that the substantive

~~major~~ change constitutes the creation of a new or different law school, then it shall ~~recommend to the Council~~ require that the school apply for provisional approval under the provisions of Standard 102 and Rule ~~22~~ 27. Factors that shall be considered in making the determination of whether the ~~major~~-substantive change is so significant as to constitute the creation of a new or different law school include, without limitation:

- (1) the financial resources available to the law school;
- (2) a significant change, present or planned, in the governance of the law school;
- (3) the overall composition of the faculty and staff at the law school;
- (4) the educational program offered by the law school; and
- (5) the location or physical facilities of the law school.

(f) A law school's approval status remains unchanged following acquiescence in any substantive ~~major~~ change.

(g) A law school's request for acquiescence in the proposed ~~major~~ substantive change in organizational structure shall be considered under the provisions of Rule ~~25~~ 30, and will become effective upon the decision of the Council. The decision of the Council may not be retroactive.

Rule ~~25~~ 30: ~~Major~~ Substantive Changes Requiring a Reliable Plan

(a) In addition to satisfying the requirements of Rule ~~2429~~(b), an application for acquiescence under Rule 2429(a)(1) through Rule ~~2429~~(a)(9) shall include a reliable plan.

(b) The reliable plan in connection with the establishment of a branch campus under Rule ~~2429~~(a)(9) shall contain information sufficient to allow the ~~Accreditation Committee and the~~ Council to determine that:

- (1) The proposed branch campus has achieved substantial compliance with the Standards and is reasonably likely to achieve full compliance with each of the Standards within three years of the effective date of acquiescence;
- (2) The proposed branch campus will meet the requirements of Standard 106 applicable to separate locations and branch campuses.

(c) The reliable plan regarding a matter involving a substantial change in ownership, governance, control, assets, or finances of the law school, under Rule ~~2429~~(a)(1) through Rule 2429(a)(7) shall contain information sufficient to allow the ~~Accreditation Committee and the~~ Council to determine whether the law school is reasonably likely to be in full compliance with each of the Standards as of the effective date of acquiescence.

(d) The reliable plan regarding a change in location of the law school that could result in substantial changes in the faculty, administration, student body, or management of the law school

under Rule ~~2429~~(a)(8) shall contain information sufficient to allow the ~~Accreditation Committee~~ and the Council to determine whether the law school is reasonably likely to be in full compliance with each of the Standards within one year of the effective date of acquiescence.

(e) In a case where the Council has acquiesced in a ~~major~~ substantive change subject to (a), the ~~Council~~ Managing Director shall appoint a fact finder subsequent to the effective date of acquiescence, as provided in (f), (g), or (h).

(f) In the case of the establishment of a branch campus under Rule ~~2429~~(a)(9), the fact finding visit required in accordance with (e) shall be conducted within six months of the effective date of acquiescence or in the first academic term subsequent to acquiescence in which students are enrolled at the branch campus to verify that the branch campus satisfies the requisites of (b)(2).

(g) In a case involving a substantial change in ownership, control, assets, or finances of the law school under Rule ~~2429~~(a)(1) through Rule 2429(a)(7), the fact finding visit required in accordance with (e) shall be conducted within six months of the effective date of acquiescence to verify that the law school is in compliance with the Standards.

(h) In a case involving a substantial change in location of the law school that could result in substantial changes in the faculty, administration, student body, or management of the law school, under Rule ~~2429~~(a)(8), the fact finding visit required in accordance with (e) shall be conducted within one year of acquiescence to verify that the law school is in compliance with the Standards.

Rule ~~26~~ 31: Reapplication for Acquiescence in ~~Major~~ Substantive Change

(a) If the ~~Committee~~ or Council denies an application for acquiescence in a ~~major~~ substantive change, or if an application for acquiescence in a substantive ~~major~~ change is withdrawn by a law school, a law school shall not reapply until it is able to certify in its application that it has addressed the reasons for the denial or withdrawal, explains how it has done so, and is able to demonstrate that it is operating in compliance with the Standards.

(b) Any new application must be filed in accordance with Rule ~~24~~ 29.

Rule ~~27~~ 32: Application for Approval of Foreign Program

(a) A law school may apply for approval of programs in accordance with the procedures set forth in the following Criteria:

- (1) Criteria for Foreign Summer and Intersession Programs offered by ABA-Approved Law Schools in a location outside the United States;
- (2) Criteria for Approval of Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools; or
- (3) Criteria for Accepting Credit for Student Study at a Foreign Institution.

Rule 28 33: Application for Variance

(a) A law school applying for a variance has the burden of demonstrating that the variance should be granted. The application should include, at a minimum, the following:

(1) A precise description of the program changes or other actions for which the variance is sought, and identification of the Standard or Standards with which they are or may be inconsistent;

(2) An explanation of the bases and reasons that justify granting the variance; and

(3) Any additional information and factual material needed to sustain the law school's burden of proof and support the granting of the application.

(b) ~~The chair of the Accreditation Committee or the~~ Managing Director may appoint one or more fact finders to elicit additional information and facts relevant and necessary to consideration of the application for a variance.

(c) The Managing Director, ~~the Accreditation Committee or the Council~~ may request written reports from a law school to which a variance has been granted in addition to the written reports required under the terms of the variance.

Rule 29 34: Teach-Out Plan

(a) If a provisional or fully approved law school decides to cease operations or close a branch campus, the law school shall promptly make a public announcement of the decision and shall notify the Managing Director, the appropriate state licensing authority, and the United States Department of Education of the decision.

(b) A provisional or fully approved law school must submit a teach-out plan for approval upon occurrence of any of the following events:

(1) The law school notifies the Managing Director's Office that it intends to cease operations or close a branch campus;

(2) ~~The Accreditation Committee recommends, or the~~ Council acts to withdraw, terminate, or suspend, the accreditation of the law school;

(3) The United States Secretary of Education notifies the Managing Director's Office that the Secretary has initiated an emergency action against an institution, in accordance with section 487(c)(1)(G) of the HEA, or an action to limit, suspend, or terminate an institution participating in any title IV, HEA program, in accordance with section 487(c)(1)(F) of the HEA, and that a teach-out plan is required;

(4) A state licensing or authorizing agency notifies the Managing Director's Office that an institution's license or legal authorization to provide an educational program has been or will be revoked.

(c) The law school shall submit the teach-out plan for the law school or branch being closed as required by paragraph (b) to the Managing Director's Office within the time specified by the Managing Director. The Managing Director's Office, in consultation with the Chair of the Council Accreditation Committee, may require a law school to enter into a teach-out agreement as part of its teach-out plan.

(d) A law school must submit the "Teach-Out Plan Approval Form," as adopted by the Council, and address each item in the form.

(e) If a law school voluntarily enters into a teach-out agreement or if the Managing Director requires a law school to submit a teach-out agreement as part of a teach-out plan, the law school must submit the "Teach-Out Agreement Approval Form," as adopted by the Council, and address each criterion in the form.

(f) ~~The Accreditation Committee~~ Council will promptly review a shall either approve or deny the teach-out plan submitted in accordance with (b) and (c), ~~and shall recommend approval or denial of the plan by the Council.~~

(1) Approval of the teach-out plan may be conditioned on specified changes to the plan.

(2) If the teach-out plan is denied, the law school must revise the plan to meet the deficiencies identified and resubmit the plan no later than 30 days after receiving notice of the decision.

(g) Upon approval of a teach-out plan of a law school or branch that is also accredited by another recognized accrediting agency, the Managing Director's Office shall notify that accrediting agency within 30 days of its approval.

(h) Upon approval of a teach-out plan, the Managing Director shall within 30 days notify all recognized agencies that accredit other programs offered by the institution of which the law school is a part.

(i) In the event a law school closes without an approved teach-out plan or agreement, the Managing Director's office will work with the United States Department of Education and the appropriate State agency, to the extent feasible, to assist students in finding reasonable opportunities to complete their education without additional charges.

VII. ~~VIII.~~ Appeals Panel Procedure

Rule ~~30~~ 35: Appeals Panel

(a) The Appeals Panel shall consist of at least five persons appointed by the Chair of the Council. Members shall serve a one-year term beginning at the end of the Annual Meeting of the Section and continuing to the end of the next Annual Meeting of the Section or until replaced. Appeals Panel members and alternates are eligible to serve consecutive terms or non-consecutive multiple terms.

- (b) Every member of the Appeals Panel shall be:
 - (1) A former member of the Council or Accreditation Committee; or
 - (2) An experienced site evaluator.
- (c) Members of the Appeals Panel shall be:
 - (1) Experienced in and knowledgeable about the Standards, Interpretations and Rules of Procedure;
 - (2) Trained in the Standards, Interpretations and Rules of Procedure at a retreat or workshop or by other appropriate methods within the 3 years prior to appointment; and
 - (3) Subject to the Section's Conflicts of Interest Policy, as provided in IOP 19.
- (d) The Appeals Panel shall include at least one of each of the following:
 - (1) an academic;
 - (2) an administrator;
 - (3) a legal educator;
 - (4) a practitioner or member of the judiciary; and
 - (5) a representative of the public.
- (e) No more than fifty percent of the members may be persons whose primary professional employment is as a law school dean, faculty or staff member. Public members shall have qualifications and representation consistent with the regulations of the United States Department of Education applicable to the accreditation of professional schools.

Rule 31 36: Form and Content of Appeals to the Appeals Panel

- (a) A law school may appeal decisions of the Council specified in Rule 3 by filing a written appeal with the Managing Director within 30 days after the date of the letter to the law school reporting the decision of the Council.
- (b) The written appeal shall include:
 - (1) A statement of the grounds upon which the appeal is based; and
 - (2) Documentation in support of the grounds upon which the appeal is based.
- (c) The grounds for an appeal are limited to the following:

(1) ~~That~~ The decision of the Council was arbitrary and capricious; or

(2) ~~That~~ The Council failed to follow the applicable Rules of Procedure, and the procedural error prejudiced its decision.

(d) The written appeal and supporting documentation may not contain or refer to any evidence that was not in the record before the Council.

Rule ~~3237~~: Membership of the Appeals Panel for the Proceeding

Within 30 days of receipt of a written appeal within the scope of authority of the Appeals Panel, the Managing Director shall appoint three members of the Appeals Panel to hear the particular matter and make the decision. The appointed members shall be known as the Proceeding Panel. The Managing Director shall designate one member of the Proceeding Panel as chair.

For law schools for which the Council is the institutional accreditor, the Managing Director shall appoint an academic, an administrator, and a representative of the public to serve on the Proceeding Panel. For law schools for which the Council is the programmatic accreditor, the Managing Director shall appoint a legal educator, a practitioner or member of the judiciary, and a representative of the public to serve on the Proceeding Panel.

In the event a member of the Appeals Panel cannot be appointed to participate in a decision on appeal so as to ensure that the Proceeding Panel meets the requirements of 30 and 32, the Managing Director shall appoint to the Proceeding Panel another person who meets those requirements.

Rule ~~3338~~: Scheduling of Hearings

(a) ~~The Managing Director shall refer the appeal to the Proceeding Panel w~~Within 30 days of receipt of a written appeal within the scope of authority of the Appeals Panel, ~~the Managing Director shall refer the appeal to the Proceeding Panel.~~ In referring the appeal, the Managing Director shall provide the Proceeding Panel with copies of:

(1) The written appeal;

(2) The decision of the Council; and

(3) The record before the Council, including any transcript of hearing.

(b) The Managing Director, in consultation with the Chair of the ~~Proceeding~~ Appeals Panel, shall set the date, time, and place of the hearing.

(1) The hearing shall be scheduled within forty-five days of the Managing Director's referral of the appeal to the Proceeding Panel.

(2) The Managing Director shall inform the law school of the date, time, and place of the hearing at least 30 days in advance of the hearing, unless the law school agrees to the hearing on less than 30 days' notice.

Rule ~~3439~~: Burdens and Evidence in Proceedings

(a) The law school appealing to the Appeals Panel has the burden of demonstrating that the Council's decision was arbitrary and capricious, and not supported by the evidence on record, or inconsistent with the Rules of Procedure and that inconsistency prejudiced its decision.

(b) The appeal shall be decided based exclusively on the record before ~~the Committee and the Council, the transcript of the hearing before the Council, and the decision letter of letters of those bodies and any documents cited in those decision letters, and transcripts of hearings before the Committee and the Council.~~ Except as provided in Rule ~~3644~~(e), no new evidence shall be considered by the Proceeding Panel.

Rule ~~35~~ ~~40~~: Procedure in Hearings before the Proceeding Panel

(a) The hearing will be a closed proceeding and not open to the public.

(b) The law school shall have a right to have representatives, including legal counsel, appear at the hearing.

(c) The Council shall be represented at the hearing through the Chair, other members of the Council as the Chair of the Council deems appropriate, and legal representation for the Council.

(d) The Managing Director or designee shall be present at the hearing. The Managing Director may designate additional staff to be present at the hearing.

(e) The hearing shall be transcribed by a court reporter and a transcript of the hearing shall be provided to the Proceeding Panel, the Council, and the law school.

Rule ~~36~~ ~~41~~: ~~Action by~~ Decision of the Proceeding Panel

(a) ~~Within 30 days of the hearing, the Proceeding Panel shall provide the Council and the law school with a written statement of the Proceeding Panel's decision and the basis for that decision.~~ issue a written decision no later than 30 days following the hearing. The decision shall state specifically the grounds upon which it is based.

(b) The Proceeding Panel, following a hearing, has the authority to:

- (1) Affirm the decision of the Council;
- (2) Reverse the decision of the Council and enter a new decision;
- (3) Amend the decision of the Council; or
- (4) Remand the decision of the Council for further consideration.

(c) The decision of the Proceeding Panel shall be effective upon issuance. If the Proceeding Panel remands a decision for further consideration or action by the Council, the Proceeding Panel shall identify specific issues that the Council must address.

(d) Decisions by the Proceeding Panel under (b)(1), (2) and (3) are final and not appealable.

(e) When the only remaining deficiency cited by the Council in support of an adverse decision is a law school's failure to meet the Standards dealing with financial resources for a law school, the law school may request a review of new financial information that was not part of the record before the Council at the time of the adverse decision if all of the following conditions are met:

(1) A written request for review is filed with the Office of the Managing Director within 30 days after the date of the letter reporting the adverse decision of the Council to the law school;

(2) The financial information was unavailable to the law school until after the adverse decision subject to the appeal was made; and

(3) The financial information is significant and bears materially on the financial deficiencies that were the basis of the adverse decision by the Council.

(f) The request to review new financial information will be considered by the Council at its next meeting occurring at least 30 days after receipt of the request.

(g) A law school may request review of new financial information only once and a decision made by the Council with respect to that review does not provide a basis for appeal.

VIII. IX. Complaints Regarding Noncompliance with Standards

Rule 37 42: Complaints in General

(a) The United States Department of Education procedures and rules for the recognition of accrediting agencies require a recognized accrediting agency to have a process for the reporting of complaints against accredited institutions that might be out of compliance with the agency's accreditation standards. This is the process for the Council with regard to law schools having J.D. programs approved by the Council.

(b) The process for Complaints under these Rules ~~aims~~ is designed to bring to the attention of the Council, ~~the Committee,~~ and the Managing Director facts and allegations that may indicate that an approved law school is operating its program of legal education out of compliance with the Standards.

(c) This process is not available to serve as a mediating or dispute-resolving process for persons with complaints about the policies or actions of an approved law school. Neither ~~the Council, the Committee and~~ nor the Managing Director will ~~not~~ intervene with an approved law school on behalf of an individual with a complaint against or concern about action taken by a law school that adversely affects that individual. ~~The outcome of this process will not be the ordering of any~~ The Council will, as a part of this process, provide no individual relief for any person, nor will it order any ~~or~~ specific action by a law school with respect to any individual.

(d) If a law school that is the subject of a complaint is due to receive a regularly scheduled sabbatical site evaluation within a reasonable amount of time after the complaint is received, usually within one year, the complaint may be handled as part of the sabbatical site evaluation.

Rule 38 43: Submission of Complaints

(a) Any person may file with the Managing Director a written complaint alleging non-compliance with the Standards.

(1) Except in extraordinary circumstances, the complaint must be filed within one calendar year of the facts on which the allegation is based. Pursuit of other remedies does not toll this one calendar year limit.

(2) Complaints must be in writing using the form “Complaint Against an ABA Approved Law School” and must be signed. The form shall be available ~~both~~ online and from the Office of the Managing Director.

(3) Anonymous complaints will not be considered.

(4) A complaint that has been resolved will not be subject to further review or reconsideration unless subsequent complaints about the law school raise new issues or suggest a pattern of significant noncompliance with the Standards not evident from the consideration of the previously resolved complaint.

(b) The Complaint must provide the following information:

(1) A clear and concise description of the nature of the complaint and any evidence upon which the allegation is based, with relevant supporting documentation. The description and supporting evidence should include relevant facts that support the allegation that the law school is out of compliance with the Standards referenced in the complaint.

(2) The Standards and Interpretations alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred.

(3) A description of the steps taken to exhaust the law school’s grievance process and the actions taken by the law school in response to the complaint as a result of prescribed procedures.

(4) Disclosure of any other channels the complainant is pursuing, including legal action.

(5) A release authorizing the Managing Director’s Office to send a copy of the complaint to the dean.

(c) If the person filing the complaint is not willing to sign a release authorizing the Managing Director’s Office to send a copy of the complaint to the dean, the matter will be closed. If the Managing Director concludes that extraordinary circumstances so require, the name of the person filing the complaint may be withheld from the law school.

Rule 39 44: Disposition of Complaints

(a) The Managing Director, upon receiving a complaint submitted in accordance with Rule 43 37 and not dismissed, shall proceed as follows:

(1) The Managing Director shall acknowledge receipt of the complaint within 14 days of its receipt.

(2) The Managing Director shall determine whether the complaint alleges facts that raise issues relating to an approved law school's compliance with the Standards. This determination shall be made within six weeks of receiving the complaint. If the Managing Director concludes that the complaint does not raise issues relating to an approved law school's compliance with the Standards, the matter will be closed.

(3) If the Managing Director determines that the complaint may raise issues relating to an approved law school's compliance with the Standards, the Managing Director will send the complaint to the law school and request a response within 30 days. The Managing Director may extend the period for response if, in the judgment of the Managing Director, there is good cause for such an extension.

(4) The Managing Director will review any response to a complaint within 45 days of receipt. If the response establishes that the law school is not out of compliance with respect to the matters raised in the complaint, the Managing Director will close the matter.

(b) If the law school's response to a complaint does not establish that it is in compliance with the Standards on the matters raised by the complaint, the Managing Director, in consultation with the Chair of the Council ~~Committee~~, may appoint a fact finder to investigate the issues raised by the complaint and the law school's response.

(c) If the law school's response to a complaint does not establish that it is in compliance with the Standards on the matters raised by the complaint, then the Managing Director shall refer the complaint, along with the law school's response, the fact-finder's report, if any, and any other relevant information, to the ~~Committee~~ Council for further action in accordance with these Rules.

Rule 40 45: Notice of Disposition of Complaint

The Managing Director will promptly notify the person submitting a complaint of the final disposition of the complaint. The notification shall not include a copy of the law school's response, if any, and shall not include a copy of any written decision of the Council ~~Committee~~.

Rule 41 46: Appeal of Managing Director's Disposition of Complaint

There is no appeal to any body of a conclusion by the Managing Director that a complaint does not raise issues under the Standards.

Rule ~~42~~ 47: Review of Complaint Process

To ensure the proper administration of this complaint process, the ~~Committee~~ Council shall periodically review the written complaints received in the Managing Director's Office and their disposition.

Rule ~~43~~ 48: Records of Complaints

The Managing Director's Office shall keep a record of the complaints under Part VIII of these Rules for a period of ten years.

IX. ~~X.~~ Transparency and Confidentiality

Rule ~~44~~ 49: Confidentiality of Accreditation Matters

Except as otherwise provided in these Rules, all matters relating to the accreditation of a law school, including any proceedings, hearings or meetings of the ~~Committee~~ or Council, shall be confidential.

Rule ~~45~~ 50: Communication of Decisions and Recommendations

When a law school is the subject of a decision or recommendation in accordance with these Rules, the Managing Director shall promptly inform the dean and the president of the decision or recommendation, in writing.

Rule ~~46~~ 51: Communication and Distribution of Site Evaluation Reports

(a) Except as provided in Part ~~X-IX~~ IX of these Rules, site evaluation and fact finding reports shall be confidential.

(b) The law school may release an entire site evaluation report or fact finding report or portions of a report.

(1) If the law school makes public the site evaluation report or any portion of it, the law school must notify the Managing Director at or before the time of the disclosure. In the event the law school discloses only a portion of the site evaluation report, the Managing Director, in consultation with the Chair of the Council, may subsequently disclose any other portions of the site evaluation report or the entire report.

(2) Discussion of the contents of a site evaluation report with, or release of the report to, the faculty, the university administration, or the governing board of the university or law school, does not constitute release of the report to the public within the meaning of this Rule.

(c) If the dean determines that a site evaluation report for the dean's law school contains criticism of the professional performance, competence, or behavior of a member of the law school's faculty or professional staff:

(1) The dean shall make available to the person affected the relevant portions of the report and shall send the Managing Director a copy of those relevant portions and any accompanying memorandum or letter to the affected person.

(2) The affected person shall have the right to file with the Managing Director a document responding to the criticism contained in the site evaluation report.

(3) Any such response to the criticism shall become part of the law school's official file.

Rule ~~47~~ 52: Disclosure of Decision Letters

~~(a) Except as provided in Rule 47-53, decisions and recommendations of the Committee and Council shall be confidential.~~

~~(b)~~(a) If the law school makes public a decision ~~or recommendation~~ of the ~~Committee or~~ Council, the law school must make public the entire decision ~~or recommendation~~.

(1) If the law school makes public a decision ~~or recommendation~~ of the ~~Committee or~~ Council, the law school must notify the Managing Director at or before the time of the disclosure.

(i) The Managing Director, in consultation with the Chair of the Council, may subsequently correct any inaccurate or misleading information released or published by the law school in connection with the disclosure or the decision ~~or recommendation~~.

(ii) A corrective communication by the Managing Director may include the disclosure of portions of the site evaluation report or the entire site evaluation report.

(2) Discussion of the contents of a decision ~~or recommendation~~ with, or release of the report to, the faculty, the university, or the governing board of the university or law school, does not constitute release of the decision ~~or recommendation~~ to the public within the meaning of this Rule.

Rule 48 53: Applications, Plans, Decisions and Recommendations Made Public

(a) When a law school has applied for provisional or full approval, acquiescence in a major change, or a variance, or has submitted a teach-out plan for approval, ~~the Council or the~~ Managing Director shall provide public notice:

(1) That the law school has submitted an application or plan; and

(2) Of the procedural steps for consideration of the application or plan.

~~(b) After a law school has been notified of the Committee's decision or recommendation, the Managing Director may state publicly the conclusions of the Committee and its decision or recommendation, with an explanation of the procedural steps in further consideration of the matter, concerning:~~

~~(1) The law school's application for provisional or full approval;~~

~~(2) The law school's application for acquiescence in a major change;~~

- ~~(3) The law school's application for a variance;~~
- ~~(4) The imposition of sanctions or specific remedial action on the law school;~~
- ~~(5) The placing of the law school on probation; or~~
- ~~(6) The withdrawal of the law school's approval;~~

~~(b)~~(e) After a law school has been notified of the Council's decision, the Managing Director shall provide public notification of the Council's conclusions and decision (except as to a sanction that is explicitly not public), with an explanation of any procedural steps for further consideration of the matter, concerning:

- (1) The law school's application for provisional or full approval;
- (2) The law school's application for acquiescence in a ~~major~~ substantive change;
- (3) The law school's application for a variance;
- (4) The imposition of sanctions or specific remedial action on the law school;
- (5) The placing of the law school on probation; ~~or~~
- (6) The withdrawal of the law school's approval;
- (7) The law school's significant non-compliance with one or more Standards under Rule 12(a)(4); or
- (8) The Law School's submission of a teach-out-plan.

~~(c)~~(d) After a matter concerning a law school has been acted upon by an Appeals Panel, ~~the Council or~~ the Managing Director shall provide public notification of the conclusions and decision of the Appeals Panel.

(d) After a law school has been notified of a Council's decision, the Managing Director, with the concurrence of the Council Chair, may issue a public statement in writing or orally to address other matters related to the accreditation of the school, to confirm or deny media reports on the law school's accreditation or matters related to that accreditation, or to respond to an inquiry from the public.

Rule 49 54: Statistical Reports

(a) School specific information and statistical reports derived from data contained in all questionnaires are for the use of the Council, ~~the Committee,~~ the Managing Director, and deans of ABA-approved law schools, and are not for public release.

(b) Information contained in statistical reports prepared from data contained in annual

questionnaires is for exclusive and official use by those persons authorized by the Council to receive such statistical reports, except as public disclosure of information about specific law schools is authorized under Standard 509 or has been made public by the law school.

(c) The Managing Director may release general data from the statistical reports and questionnaires that are not school-specific.

Rule ~~50~~ 55: Publication of List of Approved Law Schools

The Council shall publish annually a complete list of all approved law schools. The list shall be published in one or more venues designated by the Council pursuant to Standard 509.

X. XI. Amendment of Standards, Interpretations and Rules

Rule ~~51~~ 56: Council Authority

The Council has authority to adopt, revise, amend or repeal the Standards, Rules, and Interpretations.

Rule ~~52~~ 57: Concurrence by the ABA House of Delegates

(a) A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules does not become effective until it has been concurred in by the ABA House of Delegates in accordance with House Rule 45.9. After the meeting of the Council at which it decides to adopt, revise, amend or repeal the Standards, Interpretations or Rules, the Chairperson of the Council shall furnish a written statement of the Council action to the House.

(b) Once the action of the Council is placed on the calendar of a meeting of the House, the House shall at that meeting either agree with the Council's decision or refer the decision back to the Council for further consideration. If the House refers a decision back to the Council, the House shall provide the Council with a statement setting forth the reasons for its referral.

(c) A decision by the Council to adopt, revise, amend or repeal the Standards, Interpretations or Rules is subject to a maximum of two referrals back to the Council by the House. If the House refers a Council decision back to the Council twice, then the decision of the Council following the second referral will be final and will not be subject to further review by the House.